IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 531 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 2 - Appellant(s)
Versus
KUNVERBEN PREMJIBHAI & 3 - Defendant(s)

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Appearance :
GOVERNMENT PLEADER for Appellant(s) : 1 - 3.
MR YOGESH S LAKHANI for Defendant(s) : 1,
MR PJ KANABAR for Defendant(s) : 1.2.1, 1.2.2, 1.2.3,1.2.4

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 29/08/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgment and award passed by the Learned Civil Judge (S.D) and Ex-Officio

Commissioner for Workmen's Compensation, Amreli dated 20.7.92 in Workmen's Compensation Application No. 12 of 1986 whereby the claimants were awarded a sum of Rs 64,584/-.

2. The deceased Babubhai Premjibhai who was aged about 24 years was serving as peon in the court of Chief Judicial Magistrate Court Amreli,. He was earning Rs 600/-. His family members were dependent on him. On the day of the incident dated 28.3.85 the deceased was on duty and at 2:30 0'clock the deceased was coming after taking his meal. At that time he was caught by one Satish Amarsi, Kantilal Devraj and Jivraj Ramji and he was inflicted with knife by one Manoj Amarsi and due to such assault the deceased got serious injury and during the medical treatment he expired. The claimants have therefore filed claim application for getting compensation of Rs 1,00,000/- alongwith the penalty and interest from the opponents.

3. Learned advocate for the appellant has contended that the learned Civil Judge (S.D) &

Ex.Officio Commissioner has erred in entertaining the application and thereby erred in awarding Rs 64,584/- by way of compensation in favour of original applicants which has resulted into miscarriage of justice.

4. The learned advocate for the appellant has further contended that Learned Civil Judge & Ex-Officio commissioner ought to have held that the original applicants have failed to prove and thereby the applicants are not entitled for any compensation as claimed in the petition.

5. As a result of hearing and perusal of the record it is found that the commissioner has discussed the matter threadbare. The commissioner has clearly recorded a finding as under:

> " So, the peon of the court cannot be said that he is not covered within the definition of the workman as per the observation laid down in above citation and hence, in view of the evidence on record as well as the documents produced on record the present applicant is entitled to get compensation and it is also held that peon was on duty at the time when the accident taken place. Furthermore, all the applicants are the legal heirs of the deceased peon of Babubhai Premji and they

are entitled to get compensation from the opponents under the Act. It is also found from the record that the deposition of the witnesses as well as documentary evidence at the time of accident he was aged about 26 years and at the time of accident he was coming back to the court on duty and at that time he was murdered by outsider.”

6. I am in complete agreement with reasoning adopted and findings arrived at by the commissioner no case is made out to cause interference. Hence the appeal is dismissed. No order as to costs.

(K.S.Jhaveri,J)

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